

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

UNITED STATES OF AMERICA,  
Plaintiff

-v-

RICHARD E. GEARHART,  
Defendant

Case No. 2:16-CR-00178-JVB-JEM-1

## **MOTION FOR CONTINUANCE OF TRIAL**

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Comes now Defendant RICHARD E. GEARHART, by counsel J. Michael Katz, and moves the Court to continue the April 30<sup>th</sup>, 2018, primary trial setting in this cause and in support thereof states the following:

1. On December 22<sup>nd</sup>, 2016, an Indictment [Doc. No. 1] was returned and filed against Defendant RICHARD E. GEARHART, alleging multiple counts of Conspiracy to Commit Securities Fraud, Securities Fraud, Wire Fraud and Forfeiture.
2. Thereafter on January 5<sup>th</sup>, 2017, RICHARD E. GEARHART, was arraigned and entered a plea of not guilty [Doc. No. 21].
3. On July 20<sup>th</sup>, 2017, this matter was set for jury trial as a primary setting to commence on April 30<sup>th</sup>, 2018, and the Court allotted a period of two (2) weeks within which this cause would be tried [Doc. No. 36].
4. Thereafter, on September 29<sup>th</sup>, 2017, it was brought to the attention of counsel that on May 16<sup>th</sup>, 2017, Magistrate Judge Andrew P. Rodovich scheduled the cause of *United States -v-*

*Sergio Garcia, Sr., et al.*, United States District Court, Northern District of Indiana, Cause No.: 2:16-cr-00089, as a three (3) week jury trial to commence on April 9<sup>th</sup>, 2018 [Doc. No. 44].

5. In that cause attorney J. Michael Katz serves as co-counsel for Sergio Garcia, Sr., in a complex matter that involves a multi-count indictment alleging conspiracy to commit mail fraud and criminal forfeiture by multiple defendants and in which the defense has through discovery been provided with over 100,000 pages of documentation.

6. Because of the necessity of adequate opportunity for preparation and the fact that such trials, as currently scheduled, will overlap, it has become necessary for counsel in this cause to request a continuance of the current trial setting, as noted in the Court's minute entry of October 6<sup>th</sup>, 2017 [Doc. No. 43].

7. On October 6<sup>th</sup> and 12<sup>th</sup>, 2017, counsel has had the opportunity to confer with Assistant United States Attorney ("AUSA") Toi Denise Houston with regard to such conflict and any calendaring issues she might have, and AUSA Houston has indicated that the government would have no objection to a motion which requested that this matter be rescheduled for trial to commence on either June 18<sup>th</sup> or July 9<sup>th</sup>, 2018.

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WHEREFORE, Defendant RICHARD E. GEARHART moves the Court to reschedule this matter for trial to commence on either June 18<sup>th</sup> or July 9<sup>th</sup>, 2018, and for such further relief in the premises as this Court may deem just and proper.

Respectfully submitted,

/s/ J. Michael Katz  
J. MICHAEL KATZ  
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GOODMAN KATZ KONCE & MAROC  
Counsel for Defendant,  
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## VERIFICATION

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J. MICHAEL KATZ of GOODMAN KATZ KONCE & MAROC affirms under the penalties for perjury that he is counsel for Defendant RICHARD E. GEARHART and that the above and foregoing representations are true and correct.

/s/ J. Michael Katz  
J. MICHAEL KATZ  
Indiana Attorney Number: 5084-45

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**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on October 12<sup>th</sup>, 2017, he has electronically filed the above and foregoing MOTION FOR CONTINUANCE OF TRIAL on behalf of Defendant RICHARD E. GEARHART with the Clerk of the United States District Court for the Northern District of Indiana using the CM/ECF system.

/s/ J. Michael Katz  
J. MICHAEL KATZ  
Indiana Attorney Number: 5084-45  
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